

## **Region 1**

### **Hot Issues**

#### **Connecticut Voluntary Withdrawal from Delegation of Asbestos NESHAP**

- A *Federal Register* notice informing the public that the Connecticut Department of Energy and Environmental Protection (CT DEEP) has voluntarily withdrawn from its authorization to implement and enforce the National Emission Standards for Hazardous Air Pollutants for Asbestos (Asbestos NESHAP) was signed by Region 1 on October 25, 2017 and is awaiting publication.
- The withdrawal will become effective thirty days from publication. The notice requires affected sources to notify the EPA of any asbestos demolition or renovation activity.
- CT DEEP notified EPA of its intent to voluntarily withdraw from its delegation of authority on February 7, 2017. On August 18, CT DEEP notified EPA of the conclusion of its public comment period and requested that EPA proceed with a *Federal Register* notice.

#### **EPA/New England States PFAS Working Group**

- Region 1 created a Per- and Polyfluoroalkyl Substances (PFAS) working group with participation from each of the New England states.
- Membership for the group was solicited by the Acting Regional Administrator to state environmental Commissioners.
- Primary goals of the group are to: 1) share information across states and the region; 2) discuss lessons learned; 3) address risk communication issues; and 4) track/consider state requests for EPA resources to support PFAS work.
- A kick-off conference call was held on October 23, 2017. Monthly calls will be held.

### **Upcoming Public Events**

#### **Mass leadership meeting**

- Next Tuesday, November 14<sup>th</sup>, Region 1 will have a senior leadership meeting with Massachusetts Department of Environmental Protection (MassDEP) to share information, discuss positive areas of collaboration, and help resolve any programmatic issues.

#### **Coakley Landfill Public Meeting**

- Region 1 is holding a public meeting on 11/15/17 at the North Hampton town hall to provide an overview and update on activities at the Coakley Landfill Superfund Site.
- Representatives from both the New Hampshire Department of Environmental Services (NHDES) and the Coakley Landfill Group (CLG) will be present along with EPA.
- Specific topics to be discussed include EPA's recent five-year review addendum, September sampling activities and preliminary results, bedrock investigation and the scope/timing of additional monitoring wells, and plans for fish tissue sampling.

### **Upcoming Major Decisions**

None

### **Highlights from previous weeks**

#### **Fort Devens, MA**

- On October 31, Superfund and drinking water program staff from EPA and MassDEP, along with Army and citizens group PACE, participated in two separate meetings with town officials from Ayer, as well as Devens, to discuss PFAS impacts to drinking water supply wells.
- The meeting included a discussion of contingency plans in the event that PFAS levels increase above the Lifetime Health Advisory. MassDEP noted a pending proposal for new PFAS standards that will include additional compounds beyond PFOA/PFOS.
- EPA provided information to the water suppliers regarding correct analytical methods for PFAS in drinking water and technical advisories.

#### **Vermont and Quebec Rock River restoration meeting – Grand Isle, VT**

- On October 26, EPA Region 1 staff chaired a meeting of a workgroup for a new Rock River project funded through the Lake Champlain Basin Program. This is a pilot project to demonstrate the benefits of a collaborative and consistent approach to geomorphic assessment, river corridor planning, and restoration for streams that cross the international border.
- The meeting focused on assessment protocols and the development of an RFP. Erosion from stream channel systems is a major source of phosphorus to Lake Champlain, and an important part of Lake Champlain TMDL implementation.

**Region 2****Hot Issues**

**Hurricanes Irma & Maria:** On 11/2 Regional Administrator Pete Lopez testified on behalf of the Agency at a hearing of the House Transportation & Infrastructure Committee regarding Hurricanes Harvey, Irma and Maria. Members' statements and questions focused heavily on Puerto Rico and its electrical energy grid, and questions were addressed primarily to FEMA, the Army Corps of Engineers and the Coast Guard. Rep. Nadler of New York raised a number of questions to RA Lopez regarding the Dorado Superfund site in Puerto Rico and the contamination of groundwater wells there.

**Past Week**

**District Court declares disaster relief funds "off limits" to PR creditors.** On 10/26 federal district court judge Laura Taylor Swain, who is supervising the PROMESA "Title III" proceedings that were initiated on behalf of the Commonwealth of PR and several of its entities, issued an order that provides, among other things, that: (i) any disaster relief funds given to the Commonwealth or other non-federal entities by FEMA or any other federal agency shall not be subject to any liens or other claims by preexisting creditors, and such funds will not be considered available for distribution to creditors in any of the Title III restructuring proceedings; and (ii) all such disaster relief funds shall be used solely for emergency assistance, disaster relief, and/or specified recovery and restorative assistance purposes.

**Berry's Creek and American Cyanamid (OU8) Superfund Sites:** Proposed cleanup plans and Records of Decision for these two sites are scheduled for FY-2018. Remedial costs at both sites significantly exceed \$50 million, and therefore these decisions will be made by the Administrator. During the week of October 23, the two sites were presented to EPA's National Remedy Review Board (NRRB) and, in the case of Berry's Creek, to EPA's Contaminated Sediments Technical Advisory Group (CSTAG). The meetings went well and we expect to be able to proceed with remedy selection this fiscal year. In coming weeks, we will be responding to any comments from the NRRB and CSTAG. We will schedule briefings for RA Pete Lopez, and discuss with Headquarters the preferred approach and timing for briefing the Administrator.

**Notice of Intent to Sue from NY State:** On October 26, 2017, the New York State Attorney General's Office sent the EPA Administrator a notice of intent to sue (NOI) asserting that EPA failed to meet a duty under the Clean Air Act (CAA) to promulgate Federal Implementation Plans (FIPs) that fully address the interstate transport of pollution from sources in states upwind of NY - specifically IL, MI, PA, VA & WV --that contribute significantly to nonattainment in, or interfere with maintenance by, NY with the 2008 Ozone NAAQS.

**Proposed County Bill Limiting 1,4-Dioxane discharge to surface water from Dewey Loeffel Superfund Site:** On 10/10, the Rensselaer County (NY) Legislature introduced a bill to limit the discharge of 1,4-dioxane to 0.35 parts per billion (ppb) from properties owned by the County that are also designated as a Superfund site. The only such location is the Dewey Loeffel federal Superfund site. The proposal is scheduled for a vote on 11/14, and is expected to pass. R2 legal and program staff have determined that it will not be applicable to site operations. RA Pete Lopez will be briefed on 11/7, after which we anticipate reaching out to the County attorney to advise that EPA does not believe the legislation will apply to our site operations, and to reiterate our belief that site operations are being

performed in a manner that is protective of human health and the environment. Additional media coverage and/or inquiries from local officials are anticipated.

## Region 3

### Hot Issues

**EPA presents VADEQ with “Excellence in State Engagement Supporting Reuse Award”** On October 27, 2017 in Arlington, Virginia, during the annual ASTSWMO meeting, EPA presented the Virginia Department of Environmental Quality (“VADEQ”) with the “Excellence in State Engagement Supporting Reuse Award.” This award, given out by EPA the past three years, was created by the Superfund Redevelopment Initiative (“SRI”) to recognize state partners whose work supporting the reuse of Superfund NPL sites has led to lasting benefits that enhance community quality of life and ensure the long -term protectiveness of site remedies and stewardship of the environment. This year the award was also given separately to Indiana and North Carolina. This award recognizes three sites where the work of VADEQ produced outstanding results in site reuse. These sites are the Avtex Fibers, Inc. Site in Front Royal, the Chisman Creek Site in York County, and the Dixie Caverns County Landfill Site in Salem. The site reuses are diverse and include recreational facilities and parks, business parks, a new police station, a driver training center, and a wildlife preserve. Virginia is the first state in Region III to receive the award.

### **Comprehensive Performance Evaluation (CPE) meeting and Press Release with PADEP and Pittsburgh Water and Sewer Authority (PWSA)**

On October 31, 2017, the Water Protection Division and the Pennsylvania Department of Environmental Protection met with PWSA to deliver a final CPE report. The report documents performance limiting factors identified by a team of staff from EPA Region 3, EPA’s Technical Support Center, PADEP and Process Applications, Inc. during the September 18 – September 22 CPE conducted at PWSA’s Aspinwall Water Treatment Plant. The areas of design, operation, maintenance and administration were evaluated to identify factors that impact PWSA’s capability to consistently meet turbidity and disinfection goals. PADEP will work with PWSA on developing a comprehensive plan to address the CPE recommendations in addition to other priority tasks.

On another note, Pennsylvania’s Auditor General released the Comprehensive Performance Evaluation report on November 1, 2017. The report contains one finding and 17 recommendations. EPA and PADEP will continue to monitor and discuss how the agencies’ concerns are being addressed.

### **EPA Regions Conduct Core TSCA Inspection of Chemours Company, Washington, WV**

On October 17-18, 2017, EPA inspectors from Regions 3, 4 and HQ inspected the Chemours facility in Washington, WV with a focus on the Toxics Substances Control Act (TSCA). Chemours manages/produces GenX, a replacement compound for PFOA. The inspection included a thorough review of the facility’s processes and records and a plant tour. Additional information from the facility will be submitted this coming week. TSCA authorizes EPA to identify, evaluate, and regulate unreasonable risks that new chemicals or significant new uses of existing chemicals may pose to human health and the environment.

### **Region 3 Land and Chemicals Division Meets with Philadelphia on Lead**

On October 25, 2017, the Region met with representatives of the City of Philadelphia to discuss lead issues. The meeting included the Commissioner of the Department of Licenses and Inspections along with staff from the City Department of Health. Previous meetings focused on lead in soil. This meeting focused on lead-based paint and lead from building demolitions. City requests were also

discussed, which included building code official training/coordination and demolition technical support

### **Region 3 Meets with Representatives of DoD to Increase Partnership and Communication Efforts**

RA Servidio, DRA Rodrigues, and the Division Directors in Region 3 met with Sharon Baumann and Patrick Timm. Sharon is the DoD Regional Environmental Coordination Director for multiple Regions within the Armed Forces. Patrick Timm is the Regional Program Coordinator for the Army. The focus of the meeting was to inform the Regional Coordinators of our structure, points of contact, and how to increase our level of communication and coordination during this time of environmental budget cuts in the armed forces.

### **Region 3 Meets with the States of Maryland and Pennsylvania to Discuss Nutrient Trading**

On November 1, 2017 RA Servidio, DRA Rodrigues, and R3 staff held a teleconference with the four Maryland and Pennsylvania Environmental and Agricultural Secretaries regarding intrastate and interstate trading. Maryland currently has language in legislation to adopt new regulations under the MD Water Quality Nutrient and Sediment Trading and Offset Program. The mention of interstate trading is included in this legislation. The state is eager to identify a pilot project that would provide benefit to the surrounding area and Chesapeake Bay. Next steps include setting up a meeting with the programmatic staff and moving forward with an approach that all agencies are comfortable with.

### **Warehouse Fire, Parkersburg, WV**

The Incident Commander officially declared that the fire was out on October 31, 2017. All Wood County resources, including contractors, have been demobilized and the property turned back over to the Property Owner. The Property Owner has installed fencing around the perimeter of the Site and hired a contractor to prepare a Water Management Plan to be submitted to WVDEP. WVDEP was on-scene November 1, 2017, inspecting the property to identify items necessary for the cleanup. Cleanup of the site will be completed under WVDEP's Order.

EPA collected ash samples from the property also on November 1, 2017. Post-fire air sampling occurred Thursday, November 2, 2017. EPA is assisting local responders with equipment inspections to determine if the fire contaminated the equipment.

### **Upcoming Public Events**

No public events to report at this time.

### **Past Events**

No events to report at this time.

## **Region 4**

### **Hot Issues**

#### **Oak Ridge Reservation CERCLA Site (Oak Ridge, Tennessee)**

Key Message: On November 2<sup>nd</sup>, Regional Administrator Trey Glenn spoke with the Acting Manager for the Oakridge Office of Environmental Management, Jay Mullis, to communicate Region 4's position regarding the need for EPA to include the Department of Energy (DOE) requirements in the list to be considered guidance (TBCs) in the Remedial Investigation/Feasibility Study. The Regional Administrator proposes to reject DOE's assertion that it is not appropriate for EPA to enforce the DOE Order requirements for the handling of low level radiation waste.

#### **Congressional Hearing and Briefing**

Key Message: On November 14<sup>th</sup>, Regional Administrator Trey Glenn will participate in a hearing for the House Energy and Commerce Committee and a briefing for the House Appropriations Committee regarding Hurricane Irma response and recovery. Region 4 also contributed to the written testimony for the Region 2 House Transportation and Infrastructure Committee hearing this week.

#### **B.F. Goodrich (Calvert City, Kentucky)**

Key Message: Region 4 has initiated the routing process for the B.F. Goodrich proposed plan. According to the proposed schedule and pending Administrator approval, Region 4 anticipates issuing the plan for public comment on November 15<sup>th</sup>.

#### **Upcoming Travel for the RA**

- None

## Region 5

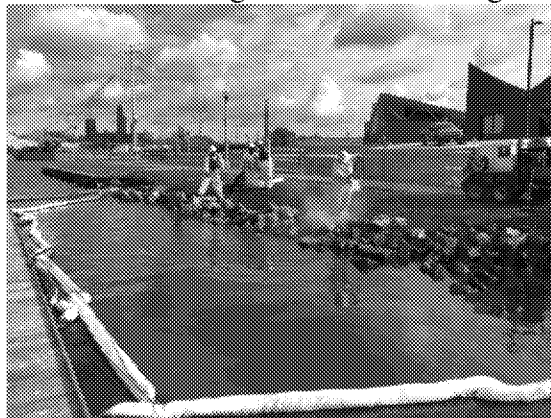
### Hot Issues:

#### **Oil Spill Cleanup Continues on South Fork Chicago River (A.K.A. Bubbly Creek) in Chicago, Illinois**

Key Message: Region 5 conducting cleanup of oil spill on the South Fork of the Chicago River.

While cleanup is underway, access to Bubbly Creek has been closed off and the creek has been secured with containment boom. The dense oil surrounding the pier at Chicago Park #571 has been removed. EPA will now focus cleanup efforts on the pockets of oil remaining in Bubbly Creek and on the Chicago Sanitary & Ship Canal (CSSC). EPA's response to the oil spill is expected to continue for at least another week. The U.S. Fish and Wildlife Service is working with USDA Wildlife Services and EPA to retrieve dead and injured wildlife. The dead wildlife recovered so far include, four turtles, one Canada goose, one seagull and 43 fish.

On October 26, 2017, EPA responded to an approximate 1.5-mile mystery oil spill on the South Fork of the Chicago River, a.k.a. Bubbly Creek, which generally flows to the South Branch of the Chicago River and the CSSC. Oil has been observed at the southernmost extent of Bubbly Creek next to the Metropolitan Water Reclamation District of Greater Chicago (MWRD) facility. The source of the oil sheen is unknown and the MWRD is assisting EPA in the investigation to find a potential source.



EPA contractor power washing rocks at Park 571

#### **Community Concerns about PFAS Contamination of Residential Wells from Wolverine World Wide Tannery Dump Sites in Rockford, Michigan**

Key Message: While Wolverine World Wide (WWW) Tannery continues to work under Michigan's Voluntary Cleanup Program to address releases from their Rockford facility, EPA is coordinating with the state to evaluate the contamination.

Region 5 representatives met with the community group on October 17, 2017, to discuss recently discovered PFAS groundwater contamination at various dump sites in the Rockford area. The PFAS contamination has impacted some residential wells at concentrations above the health advisory and is believed to be from WWW waste disposal at the various locations. WWW has been providing alternative drinking water to impacted residents. Subsequent to the October 17, 2017 meeting the



Region 5 Superfund removal program was approached by local area health departments, the Michigan Governor's office, and the Michigan Department of Environmental Quality (MDEQ) about potential federal resources being made available to help respond to the site.

In 2012, EPA agreed that MDEQ could address contamination from the WWW facility as an "other cleanup authority (OCA)" alternative to the Superfund remedial process. An EPA 2102 Preliminary Assessment determined that the site may be eligible for the Superfund National Priorities List. On November 1, 2017, Region 5 and MDEQ discussed the status of the WWW OCA and their plan to evaluate the dump sites. MDEQ discussed the challenges of the situation, however, maintains interest in keeping the facility as an OCA state-lead site.

### **Upcoming Events:**

#### **Region 5 Senior Management to Attend Regional Tribal Operations Committee Meeting**

Key message: The meeting is a continuation of a 24-year tradition of Region 5 tribal summits, featuring the free exchange of perspectives, information and strategic options.

Region 5 will take part in the third tribal summit of 2017 on November 8-9. This two-day summit will take place on the reservation of the Menominee Tribe of Wisconsin. The first day will feature an environmental and cultural tour led by the hosts, an elected leader roundtable with Region 5's Acting Regional Administrator, and then a social dinner with all meeting attendees. On the second day, a full agenda will include discussions of the recent NTOC, tribal environmental codes, and recent developments in grants management. HQ's American Indian Environmental Office will attend to provide updates on tribal capacity development. Several Region 5 Division Directors will present programmatic updates, leading to group consideration of issues and opportunities for cooperative action regarding air and water quality, waste management, and cleanup or response actions.

#### **EPA to Participate in Stakeholder Meeting Hosted by Representative Dingell on Gelman Facility Groundwater Contamination**

Key Message: EPA will participate in a November 13, 2017 meeting hosted by Representative Debbie Dingell regarding a 1,4 dioxane contaminated groundwater plume that extends from the Gelman facility into Scio and Ann Arbor Townships in Michigan.

The intent of the meeting is to improve communication between the MDEQ and the local community regarding the site. EPA will discuss the exposure risks posed by the contamination and provide an update on EPA's continued role at the site. It is anticipated that Nick Falvo, Special Assistant to Senior Advisor Albert Kelly, will also attend the meeting.

MDEQ is currently overseeing the remediation of the Gelman facility and associated contamination. The Sierra Club-Huron Valley Group, along with Scio and Ann Arbor Townships, petitioned EPA on November 18, 2016 to conduct a Preliminary Assessment (PA) of the Gelman release. EPA's PA demonstrates that the Gelman facility generates a score above 28.5 under EPA's Hazard Ranking System, making it eligible for further investigation as a potential Superfund National Priorities List site. EPA will accept MDEQ's recommendation that the site be designated as "Other Cleanup Authority" (OCA) – State lead. Notwithstanding the lead agency designation, EPA will keep the RPM engaged with the public and MDEQ for at least the next year. MDEQ has agreed to provide EPA with

quarterly status reports covering ongoing issues and remediation activities and include semiannual comprehensive trend analysis of the plume.

**Upcoming Major Decisions:**

None

**Past Week Accomplishments/Highlights:****EPA Amends Superfund Administrative Order on Consent for Chicago River Area Former Manufactured Gas Plant Sites in Chicago, Illinois**

Key Message: On October 27, 2017, EPA agreed to amend a multi-site Superfund Administrative Order on Consent with potentially responsible party (PRP) WEC Energy Group to exclude several sites/areas from the AOC.

Following a careful review of several of the eleven former MGP sites along the Chicago River, EPA decided to remove four sites from the federal Superfund cleanup program and two parcels from a fifth site. One of the sites removed is the south fork of the South Branch of the Chicago River, also known as Bubbly Creek. EPA's review determined that although the sites may have some contamination, no further Superfund response is needed. Any remaining contamination that merits cleanup at the sites can be addressed more quickly through other cleanup programs. In particular, Bubbly Creek has been identified by the U.S. Army Corps of Engineers for potential restoration opportunities. Removal of the site should address concerns previously cited by the Corps as a reason for suspension of their planned ecological restoration study and allow them to move forward with their plans. It is important to note that removal of Bubbly Creek from the AOC will not interfere with the ongoing Bubbly Creek oil spill response or future actions having to do with the spill. The other parcels and sites are likely to be submitted to the state's voluntary cleanup program.

From the mid-1800s to the 1940s, MGPs in Chicago and the surrounding areas heated coal to produce fuel which was used for street lighting, cooking and heating homes. Many MGP sites are polluted with coal tar, polyaromatic hydrocarbons, benzene, toluene, arsenic and cyanide.

**Region 5 and EPA EJ Director Meet with East Chicago Community Groups**

Key message: On October 24-25, Region 5 staff and Matt Tejada met with East Chicago community groups to discuss environmental justice issues facing the community.

The discussion center on environmental issues in East Chicago, including the USS Lead Superfund site, and the greater Northwest Indiana area. The meeting came about after an invitation by one of the community groups, East Chicago Calumet Coalition. In addition, Matt met separately with representatives of the Community Strategy Group and Calumet Lives Matter.

**Region 6****Hot Issues:****San Jacinto Waste Pits Superfund Site, Houston, Texas**

On October 24, 2017, EPA issued an invitation to the potentially responsible parties for the San Jacinto Waste Pits Superfund Site to start negotiations for the remedy for the site. The remedy selected by Administrator Pruitt on October 11, 2017 entails the excavation and off-site disposal of 212,000 dioxin contaminated sludge at an estimated cost of \$115 million. Counsel for the PRPs stated that early December is the soonest available date to meet to discuss next steps.

**Arkema Inc., Crosby, Texas**

Arkema has fully responded to EPA's information request and EPA is reviewing the materials to determine any areas requiring follow up. Arkema has also requested a meeting with EPA to discuss the investigation. The meeting is anticipated to take place by November 22.

**Wilcox Oil Company, Bristow, Oklahoma**

EPA Region 6, EPA's Office of Superfund Remediation and Technology Innovation (OSRTI), and the Oklahoma Department of Environmental Quality will continue remedial investigation activities at the Bristow, Oklahoma, site. During this field event, the team will collect surface water, sediment, and subsurface data while OSRTI samples and delineates the lead sweetening area. Work under this field event will be completed in early November 2017.

**Arkansas Regional Haze State Implementation**

The Arkansas Department of Environmental Quality (ADEQ) shared their DRAFT State Implementation Plan (SIP) regarding Arkansas Regional Haze with EPA on October 10, 2017. EPA and ADEQ staff met on October 16 – 17 to discuss the draft and recommend revisions. ADEQ started their comment period on October 31<sup>st</sup> and it will close on January 2, 2018. A public hearing is scheduled for that date at ADEQ offices in Little Rock at 2pm.

**Court Sets Deadline in Litigation re EPA's Final Action on Texas Regional Haze BART:** On September 29, 2017, the Administrator signed a *Federal Register* notice finalizing a plan to address best available retrofit technology (BART) for Texas regional haze and interstate visibility transport (and the notice was published on October 17, 2017). This action was taken to meet a consent decree deadline, and on October 13, 2017 (upon direction from the court overseeing the consent decree), the environmental plaintiffs filed a notice stating their position that the EPA's final rule does not comply with the consent decree. On October 25, 2017, EPA filed its response stating that the Administrator's action on September 29, 2017 was a final action; the requirements of the consent decree have been satisfied; and all arguments from the environmental plaintiffs regarding the content of EPA's final action should be addressed by the appropriate federal circuit court, not the district court that is overseeing the consent decree. On October 30, 2017, the court set a deadline of November 8, 2017 for the environmental plaintiffs to submit a reply to EPA's October 25, 2017 filing

**Bird Creek, Osage County, Oklahoma**

EPA met with representatives for the landowner on Monday, October 30, 2017, in Fort Worth to discuss the Warren American and Jireh Resources' proposal of the removal of the contamination in Bird Creek. EPA learned that the operators gave a very general description of the work (three sentences) with no specifics. The landowner's geologist responded with a list of questions last week

and to date, has not received a response. EPA stressed to the landowner that the Agency did not endorse the removal, but it would like to be there to observe.

#### **TPDES General Permit No. TXR040000 for MS4s**

On August 31, 2017, Texas Commission on Environmental Quality submitted to EPA the proposed Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR040000 for discharges from small municipal separate storm sewer systems (MS4s) into surface water in the state of Texas. To support internal review, TCEQ submitted additional supplemental documents on October 24, 2017. Based on initial EPA review, it is not clear how this permit conforms to the guidelines and requirements established by the Clean Water Act (CWA) and the NPDES regulations, and more specifically how the proposed General Permit meets the Final MS4 General Permit Remand Rule which mandates permitting authorities to issue General Permits for small MS4s with (i) clear, specific and measurable requirements and (ii) procedures for permitting authority review and public notice and the opportunity to request a hearing on Notices of Intent (NOIs) for authorization to discharge under a general permit. EPA expects to request additional Information pursuant to 40 C.F.R. § 123.44(d)(2)) or issue an Interim Objection letter based on final internal review before December 4, 2017.

#### **San Antonio Water System (SAWS), TX**

The SAWS and EPA are scheduled to meet in Dallas on November 8, 2017. The primary purpose of the meeting is to present SAWS' progress and compliance status of the Consent Decree. The Consent Decree was entered on October 15, 2013, in the United States District Court of Western District of Texas which addresses the injunctive relief issues required to comply with the Clean Water Act.

#### **Extreme Metals, Emory, Texas**

EPA will begin disposing of the material from the Extreme Metals site, which is a former metal recycler. The Texas Commission on Environmental Quality (TCEQ) conducted an emergency response at the site during which hazardous materials were bulked for disposal but needed help with the final disposal. TCEQ requested EPA assistance to dispose of the bulked wastes and to complete remaining cleanup activities at the site.

#### **Resurrection Mining, LLC (NPDES No. NM0028169) – Denial of Permit Renewal**

EPA intends to issue a permit denial with cause regarding the renewal application for the inactive Rio Puerco Mine. The facility is located approximate eight miles southeast Marquez, in Sandoval County, New Mexico. The mine has been inactive with no discharge since 1980. The mine site is unmanned and surface buildings have been demolished. NMED has denied the certification under CWA 401, and EPA has received no responses from the applicant and legal representative after multiple call, e-mails and two certified letters (one to signatory to the permit application with the proposed permit package and one to Resurrection Mining, LLC Agent of Record with the New Mexico Secretary of State) were returned to EPA as undeliverable. EPA has been unable to locate a current operator of this inactive mine, so there is no know permittee to issue a final permit.

#### **Tar Creek Superfund Site, Quapaw, Oklahoma**

On November 7, 2017, representatives from two EPA Regions, the states, tribes, trustees and community/watershed groups will meet in Quapaw, Oklahoma, to discuss comments and concerns regarding work in the Tristate Mining District. Region 7 representatives will provide an update on remedial action progress in both Kansas and Missouri while representatives from Region 6, the Oklahoma Department of Environmental Quality, and the Quapaw will provide updates on remedial progress in Oklahoma. In addition, Region 6 will provide updates on the Operable Unit 5 remedial

investigation, specifically related to data collection and review and discussion of human health risk assessment input parameters. The participants are expected to include Oklahoma, Kansas, Quapaw Tribe, Peoria Tribe, Wyandotte Nation, Miami Nation, Ottawa Tribe, Seneca-Cayuga Nation, Eastern Shawnee Tribe, Cherokee Nation, U.S. Fish and Wildlife, Region 7, Grand River Dam Authority, Local Environmental Action Demanded (LEAD) Agency, Grand Lake Watershed Alliance Foundation (GLWAF), and Spring River Watershed Restoration and Protection Strategy (Spring River WRAPs). Then on November 8, 2017, the EPA will meet with representatives from the Quapaw Tribe Environmental Office and the Oklahoma Department of Environmental Quality, in Quapaw, Oklahoma, to discuss the current and planned remedial actions for Operable Unit 4 (Mine Waste).

### **NEPA:**

#### **Middle Rio Grande Flood Protection Bernalillo to Belen, New Mexico**

The United States Army Corps of Engineers (USACE) prepared a General Reevaluation Report and Supplemental Environmental Impact Statement (GRR/SEIS) for the Middle Rio Grande Flood Protection Bernalillo to Belen Project, located in New Mexico. The USACE evaluated alternatives to replace existing spoil banks with engineered levees to reduce flood risk within the Middle Rio Grande between Bernalillo and Belen, New Mexico. EPA will support the USACE by meeting our basic statutory requirements for participating in the environmental review process.

### **Upcoming Public Events:**

- November 14 – The House Energy and Commerce Committee Hearing will hold a follow-up hearing on Hurricane Response activities.
- November 29 – 30 - Regional Tribal Operations Committee (RTOC) meeting, Tulsa, Oklahoma

### **Upcoming Decisions:**

#### **Veolia Environmental Services, Port Arthur Texas, PCB reauthorization**

EPA intends to approve a proposed PCB reauthorization for commercial storage and disposal of liquid and solid PCBs in Veolia's high temperature rotary kiln incinerator. A public notice announcing this proposal will be published in the Port Arthur News, opening a 45-day comment period and opportunity for a public hearing. The proposed reauthorization letter will be signed by the Associate Director for Hazardous Waste Branch. This action is in Scout for Nov 7, 2017.

#### **Arkansas Infrastructure SIP for NAAQS**

EPA intends to approve a proposal for Arkansas' Infrastructure SIP for PM 2.5, lead, ozone and NO<sub>2</sub> and SO<sub>2</sub> requirements. This action addresses implementation, maintenance and enforcement of the NAAQS for these pollutants. No comments were received during the 30-day comment period for the state SIP revision.

### **Past Week Accomplishments:**

#### **Oklahoma Corporation Commission UST Program Approval**

EPA intends to issue a direct final approval for the OCC application to operate the Oklahoma State UST regulations in lieu of the Federal UST regulations in Oklahoma. The Acting Regional Administrator is expected to approve this action by November 1, 2017.

**Pending Actions (Pending Federal Register Publication):**

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Rule FRL 9969-73-Region 6

Oklahoma: Final Approval of State Underground Storage Tank Program Revision FRL 9968-28-Region 6 and 9968-29-Region 6

Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards, FRL 9970-19-Region 6

## **Region 7**

### **Hot Issues:**

#### **R7 Puerto Rico Recovery and California Wildfire Support**

Key Message: On October 26, 2017, R7 received a request to support wildfire response needs identified by R9 and limit our R2 support to the resources ordered and supplied prior to October 26. The national strategy going forward will be for R1-R5 to support the R2 response in Puerto Rico and R6-R10 to support the R9 response in California.

On October 30, R7 deployed two Assistant Situation Unit Leaders to California. In addition, the National IMAT BUR 3 was activated to support R9 and four personnel from R7 (Deputy IC, Planning Section Chief, Logistics Section Chief, and Finance Section Chief) are being deployed under the NIMAT.

R9 is also currently asking for R6/R7 to supply 2-3 OSCs each for 2 week rotations for the next 2 rotations and as many ASOs as we can spare for the next month. The R7 REOC is checking with KLP trained PIOs and SOs and their first line supervisors to determine availability and plans to send our OSC/PIO/ASO availability list to R9 this week.

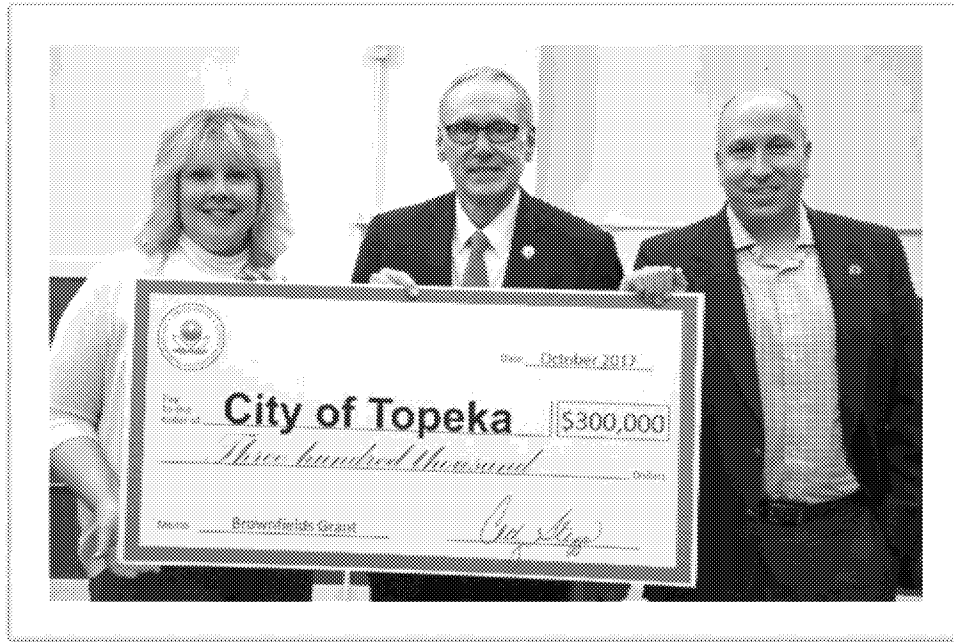
Currently, R7 has 3 OSCs in Ponce, PR who were deployed earlier this week, 1 OSC serving as the Operations Section Chief in San Juan, and an Assistant Safety Officer in San Juan assisting with safety plans as they are developed jointly with multiple Federal Agencies. R7 also has two KLP trained personnel in Edison, NJ serving as Resource Unit Leader and Assistant Situation Unit Leader. Looking ahead, Region 7 has two CICs scheduled to deploy to PR on November 5 and November 12.

### **Last Week's Highlights:**

#### **Brownfields Assessment Grant (Topeka, KS)**

Key Message: On October 26, 2017, the city of Topeka and EPA R7 celebrated the funding of a \$300,000 EPA Brownfields Assessment Grant during an event at Topeka's NOTO Arts Center.

- Cleanup and assessment grants help provide communities with resources necessary to determine the extent of site contamination, remove environmental uncertainties, and clean up contaminated properties where needed.
- The city will use the funding to expand redevelopment in the North Topeka Riverfront Area.
- Following the ceremony, R7 Principal Deputy Regional Administrator Cathy Stepp and Topeka City Planner Bill Fiander joined host Ralph Hipp for a WIBW-TV segment to discuss the city's selection for the Brownfields grant.





## **Region 8**

### **Hot Issues:**

#### **Meridian Energy Group, Proposed Davis Refinery Project in North Dakota**

Key Message: The North Dakota Department of Health (NDDH) has drafted a synthetic minor air permit for the proposed Davis Refinery project planned to be constructed west of Belfield, North Dakota, in Billings County near Theodore Roosevelt National Park. There is a high level of public interest in this project partly due to its close proximity to the park (approximately three miles from the eastern boundary). The refinery will have a 55,000 barrel per-day processing capacity.

- NDDH plans to begin the public comment period on the draft permit around November 10, 2017.
- Region 8 Air Program, along with federal land managers, has been participating in monthly calls arranged by NDDH to coordinate on the permit development. We do not typically review states' "synthetic minor" source construction permits, but NDDH invited our involvement due to the public interest in this project.
- We anticipate media interest next week on this permit. This project and permit are also important to the Governor's office.

#### **EPA to meet with American Gilsonite Corporation (AGC) on petition for review of EPA's Aquifer Exemption decision**

Key Message: On July 28, 2017, the EPA Region 8 UIC Program issued a decision to deny an Aquifer Exemption (AE) requested for a portion of the Bird's Nest Aquifer (BNA) within a 2,820-foot radius of the No. 1 Class V deep disposal well owned by American Gilsonite Corporation (AGC) near Bonanza, Utah.

- Since AGC's appeal of EPA's decision on September 11, 2017, to the U.S. Tenth Circuit Court, AGC, EPA, and DOJ have agreed to engage in settlement discussions facilitated by the Tenth Circuit's mediator.
- EPA and AGC plan to meet on November 2, 2017, to discuss possible UIC-related options that may enable injection into the BNA or possibly another formation or location consistent with UIC regulations.

### **Upcoming Public Events:**

None

### **Upcoming Major Decisions:**

None

**Last Week Highlights:**

**NEPA Staff Visits Transportation Sites and Attends Public Meeting in Utah**

Key Message: From October 26 to October 27, Region 8's NEPA Program attended site visits for the I-15 and Main St. interchange improvement project in Payson, Utah, and the State Route 30 highway improvement project in Logan, Utah, and a public meeting.

- The project site tours helped EPA to understand issues described in the Draft Environmental Impact Statements (EISs) for these projects, including wetland impacts.
- The EPA's attendance and early engagement in these projects has established relationships with the Utah Department of Transportation (UDOT), who now has primacy for NEPA transportation projects in the state of Utah.
- UDOT expressed appreciation for EPA's attendance and participation.

**NEPA and 404 Programs Attend Water Supply Cooperating Agency Meetings in Wyoming**

Key Message: From October 24 through October 26, 2017, Region 8's NEPA Program staff and CWA Section 404 staff participated in early engagement efforts on two water supply projects led by Wyoming BLM's Worland and Cody Field Offices.

- The EPA attended a public meeting on the Alkali Creek Reservoir Project and met separately with the Worland Field Office to discuss the sharing of data and analyses so that conclusions on impacts are supported in the BLM's EIS.
- The EPA and the Corps shared information with the Cody Field Office on the issues within our respective jurisdictions that the EIS should address, as well as how to efficiently meet both NEPA and CWA Section 404 requirements concurrently.
- The Field Offices expressed appreciation for EPA's early coordination and participation in these NEPA projects.

**Region 9****Hot Issues:**

No. CA Fire Response: excellent progress of parcels surveyed and completed, due to the truly remarkable work from EPA managers and staff in the various functions (Napa and Sonoma, IMT, community involvement, liaison, and PIO). With support from Regions 8 and 10, EPA has 240 federal employees and contractors on this response, working productively and harmoniously. We welcome the incoming reinforcements from Regions 5, 6 and 7. As we move to the less densely populated and more rural areas of Napa and Sonoma, the pace of our survey and collection work will change. We continue with external communications and participation in community meetings.

Sonoma County and the Regional Water Quality Control Board have formed a watershed task force to address impacts related to ash and debris run-off, as our first seasonal rains begin; we are supporting this group. Sonoma County seems to be largely with ambient water quality in the Russian River, while Napa County is primarily concerned with drinking water. This work is covered under the first ESF10 Mission Assignment to conduct surveys for Household Hazardous Waste. Several school districts have expressed concern about ambient air quality near schools. California and local air agencies are taking the lead on conducting air monitoring and advising school districts on air quality.

**Here's the progress to date, as of November 1:**

|                                  | <b>SONOMA</b> | <b>NAPA</b> | <b>TOTAL</b> |
|----------------------------------|---------------|-------------|--------------|
| <b>Parcels Impacted</b>          | 6153          | 767         | <b>6920</b>  |
| <b>Parcels Surveyed</b>          | 2222          | 402         | <b>2624</b>  |
| <b>Parcels in Progress</b>       | 101           | 136         | <b>237</b>   |
| <b>Completed</b>                 | 2121          | 266         | <b>2387</b>  |
| <b>Revisit Required</b>          | 235           | 161         | <b>396</b>   |
| <b>Parcels Surveyed 10/31/17</b> | 336           | 56          | <b>392</b>   |

**External Engagements:**

1. Marine Debris: we met with The Ocean Cleanup project, as part of their outreach to federal and state agencies, as they construct the mechanisms to remove floating plastics (above 10 mm) in the North Pacific Gyre next year. They have designed a 600-meter floating barrier, one of dozens they intend to deploy to capture debris, particularly abandoned fishing nets and lines. The collected material would come ashore for recycling in the San Francisco Bay area.
2. Annual Tribal Conference: we cohosted our annual Tribal conference with the Viejas and San Manuel tribes near San Diego, drawing hundreds of participants to three days of working sessions. Joined by our senior managers, I convened a special session for Tribal elected leaders' discussions.
3. Los Angeles County Bar Association: I'll address the L. A. Country Bar Association Friday November 3.

**Region 10****Hot Issues:**

**Bristol Bay/Pebble Mine Pending NPR Story (AK):** Alaska NPR is producing a short piece for national broadcast expected to air November 8 focused on EPA's proposed Preliminary Determination withdrawal, public comments, public hearings, including interviews with Pebble Mine, scientists and tribes. NPR is also working on an in-depth weeklong feature story on Bristol Bay/Pebble Mine launching December 1 with broadcast, online story and videos.

**Upcoming Public Events:**

**Stakeholder Meeting “Oregon’s Changing Aquatic Resource Mitigation Framework”:** On November 9<sup>th</sup>, Region 10 will participate in the Oregon's Changing Aquatic Resource Mitigation Framework (ARMF) Stakeholder meeting. The meeting is co-hosted by the Oregon Department of State Lands, Army Corps of Engineers, and EPA. Representatives of industry and homebuilding associations, agriculture, conservation organizations, local government associations and environmental consultants have been invited; approximately 50 participants are expected. The agencies have worked together collaboratively over the past several years to develop the ARMF, which aims to implement the EPA/Corps 2008 Final Mitigation Rule, and ensure consistency and enhanced coordination between federal and state regulatory agencies and programs to improve the regulatory process. Stakeholder input has been an important part of the development process. Anticipated implementation of the ARMF is February 2019.

**Press Release: Kloosterboer Dutch Harbor settlement on ammonia release violations in Unalaska (AK):** During the week of November 6<sup>th</sup>, Region 10 will announce a settlement with Kloosterboer Dutch Harbor LLC, a Seattle-based company that operates a seafood cold storage facility in Unalaska, Alaska, for violations related to an ammonia release last year that seriously injured a worker. Kloosterboer will pay \$10,008 penalty and supplemental environmental projects, valued at approx. \$26,000, to help prevent or reduce future ammonia releases and improve safety at the facility.

**Upcoming Major Decisions:**

**U.S. Navy Arctic Ice Camp - Draft NPDES Permit Modification (AK):** Region 10 is proposing to modify the Arctic Ice Camp NPDES permit issued to the U.S. Navy on December 14, 2015. The proposed modification includes expansion of the area of the potential camp location to account for increased ice movement during the six-week operational period. Region 10 has determined that the proposed permit modification does not require reinitiating consultation under ESA and has notified NMFS of this action. The 30-day comment period for the proposed modification starts on Thursday, November 2, 2017 and will end on Monday, December 4, 2017. The U.S. Navy plans to conduct another Arctic exercise in February 2018.

**Dawn Mining Company Midnite Mine NPDES Permit Issuance (WA):** EPA has received the final Clean Water Act Section 401 certification from the Spokane Tribe of Indians and is preparing final permit documents for issuance in mid-November. The final permit authorizes the discharge from a new treatment plant being constructed per the superfund ROD. Receiving authorization to discharge through an NPDES permit is also required as a part of the ROD. The facility will discharge to the Spokane Arm of Lake Roosevelt within the Spokane Tribe of Indians Reservation.

**Reissuance of UIC Permit to ConocoPhillips Alaska:** ConocoPhillips Alaska Inc. (CPAI) submitted a permit application for the reissuance of an Underground Injection Control Permit in May, 2017 for the continued use of one Class I non-hazardous injection well at CPAI's Alpine Facility, located at the Colville River Delta on the North Slope of Alaska. Following review, EPA drafted a permit, fact sheet, and public notice proposing a reissuance of this permit and initiated a public comment period on October 4, 2017, which ends on November 9th. EPA will respond to all substantive comments and make a formal decision on the issuance of the Permit. Reissuance of this permit will allow the continued injection of non-hazardous waste into geologic formations more than 8,000 feet below the ground under the constraints of reporting, inspection, operational, construction, and financial assurance requirements. No substantial comments have been received to date.

#### **Last Week Highlights:**

**Tacoma-Pierce County Health Receives EPA PISCES Exceptional Project Award (WA):**

Tacoma-Pierce County Health, one of Washington Department of Ecology's assistance recipients, was one of five recipients of an EPA PISCES Exceptional Project Award. The Clean Water State Revolving Fund's Performance and Innovation in the SRF Creating Environmental Success (PISCES) program allows assistance recipients to gain national recognition for exceptional projects funded by the CWSRF. Participating state programs each nominated one project that demonstrates one or more of the evaluation criteria: water quality, public health, or economic benefits; sustainability; and innovation. Projects may be operational or in the planning phase. Tacoma-Pierce County Health Department's On-Site Sewage System Loan Program demonstrated excellence in matching the PISCES criteria and for being innovative in using the CWSRF to achieve clean water for their communities.

## **Office of Administration and Resources Management**

### **Hot Issues:**

#### **Emergency Response Volunteers**

FEMA recently advised federal agencies that the immediate need for volunteers has ended, and any future deployment will be coordinated as mission needs arise. As a result, OARM is no longer accepting applications for participation in the Surge Capacity Force.

Program Summary: A total of 147 EPA employees applied to serve as FEMA SCF volunteers. To date, FEMA has deployed 64 EPA volunteers who are filling the following roles: Disaster Survivor Assistance Specialist, Environmental Compliance Review Specialist, Floodplain Management Specialist, Applicant Services Program Specialist, Information Technology Specialist, and Logistics Specialist.

#### **Pay Cap Waiver**

On November 2, 2017, OARM's Acting Assistant Administrator signed a pay cap waiver memo which authorizes an agency-wide exception to the bi-weekly maximum earning limitation for those employees that have been deployed as part of the Surge Capacity Force in response to Hurricanes Harvey, Irma, and Maria. This waiver will remain in effect until a cancellation of the associated emergencies is issued by the authorizing authority.

### **Upcoming Public Events:**

None

### **Upcoming Major Decisions:**

None

### **Last Week's Highlights:**

#### **Designation of National Security Positions**

Title 5, Code of Federal Regulations, Part 1400 mandated that agencies evaluate every employee's position to determine its sensitivity in relationship to the potential impact it could have on national security.

The agency's completion rate for reporting position sensitivity designations exceeded 99% and OARM is now reviewing the information to address any anomalies (such as an SES position designation as low risk, non-sensitive) and evaluating a sampling of designations. The labor and employee relations staff will meet with the unions before any needed investigations are initiated.

## Office of Air and Radiation

### Hot Issues and Important Deadlines:

- **Tracking SIP Actions:**
  - Total Number of SIPs submitted to Regions in FY 2018: 11
  - Total Number of SIP Submittals with Final Action taken by the Regions in FY 2018: 8
  - Total Number of Backlogged and Non-backlogged SIPs: 659
    - Backlogged: 505
    - Non-backlogged: 154
- **OAR actions under review at OMB:**
  - Municipal Solid Waste (MSW) Landfills New Source Performance Standards (NSPS) and Emission Guidelines (EG) – Stay Notices
  - Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach – Supplemental Proposal
  - Greenhouse Gas Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (Advance Notice of Proposed Rulemaking)
  - Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits (Proposed Rulemaking)
  - Renewable Fuel Volume Standards for 2018 and Biomass-Based Diesel Volume (BBD) for 2019

### State Implementation Plan (SIP)-Related Actions:

- The Regions report that the following 2 SIP-related actions was signed this week:
  - **Region 1: Proposed and Direct Final Rule** - New Hampshire Recordkeeping and Reporting Regulation, and VOC RACT Order for Sturm Ruger
  - **Region 9: Notice** - San Diego 2008 8-Hour Ozone RFP Budget Adequacy

### Upcoming Meetings, Public Events, or Other Public Releases:

- **Participation on the U.S. Delegation for the Framework Convention on Climate Change - 23rd Conference of the Parties (COP):** EPA staff plan to participate on the U.S. delegation to the upcoming COP in Bonn, Germany. (The COP runs from November 6-17).
- **House Energy and Commerce Committee hearing on energy bills:** The Energy Subcommittee will hold a hearing on two bills, one of which is a discussion draft of the ENERGY STAR Reform Act of 2017.
- **Montreal Protocol Meetings:** On November 20-24, EPA staff will participate as members of U.S. delegations and as co-chairs at the Joint 11th Conference of the Parties (COP) to the Vienna Convention and the 29th Meeting of the Parties (MOP) to the Montreal Protocol on Substances that Deplete the Ozone Layer.
- **Ozone Transport Commission (OTC) Fall Meeting:** On November 15, EPA staff will attend the OTC Fall meeting being held here in Washington, D.C. to discuss transport issues. (The OTC is a multi-state organization created under the Clean Air Act that is responsible for advising EPA on transport issues and for developing and implementing regional solutions to ground-level ozone issues in the Northeast and Mid-Atlantic regions).

- **Clean Power Plan (CPP) Public Hearing:** EPA will hold a public hearing on the proposed repeal of the CPP in Charleston, WV on November 28-29, 2017.

### Upcoming Decisions:

- **For Administrator's Signature – Revisions to Testing Regulations for Air Emission Sources:** In this rule we are proposing editorial and technical corrections to regulations that require source testing of emissions. (This is a routine “clean-up” action that we have done several times in the past – most recently in August 2016). The package is with OP for review.
- **For Administrator's Signature –Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition of Certain Industry, Consensus-based Standards:** This direct final rule and parallel proposal will modify the use conditions required for use of three flammable refrigerants in new household refrigerators, freezers, and combination refrigerators and freezers under the Significant New Alternatives Policy (SNAP) program. The use conditions are being revised to reflect an updated standard from Underwriters Laboratories (UL) that is incorporated by reference. The package is with OP for review.
- **For Administrator's Signature – Air Quality: Revision to the Regulatory Definition of Volatile Organic Compounds:** This direct final rule and parallel proposal will add cis-1,1,1,4,4,4-hexafluorobut-2-ene to the list of compounds excluded from the regulatory definition of volatile organic compound (VOC) on the basis that this compound makes a negligible contribution to tropospheric ozone formation. The package is with OP for review.
- **For Administrator's Signature – New York State Implementation Plan submittal addressing Regional Haze and Revision of Best Available Retrofit Technology Determination for the Danskammer Generation Station Unit 4:** In conjunction with the final SIP approval, this action also will withdraw portions of the Federal Implementation Plan (FIP). The package is with OP for review.
- **For Administrator's Signature – Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry:** This proposed notice of availability will solicit comment on the withdrawal of the Control Techniques Guidelines (CTG) for the oil and natural gas industry. The package will move to OP this week for review prior to submitting it to OMB.

### Recap of Past Week:

- **Actions signed recently:**
  - Response to December 9, 2013, Clean Air Act Section 176A Petition from CT, DE, MD, MA, NH, NY, PA, RI, and VT
  - Title V Order for Big River Steel (Arkansas)
  - Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Three Month and Two Year Stay of Certain Requirements Notices of Data Availability (NODAs)
  - Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (Public hearing and extension of the comment period notice)
- **Annual Meeting of the U.S.- Canada Air Quality Committee:** On November 2, 2017, the U.S.- Canada Air Quality Committee met in Washington, D.C. to review implementation of the U.S.- Canada Air Quality Agreement.



## Office of Chemical Safety and Pollution Prevention

Important Deadlines:

| TSCA New Chemicals Determinations |   |                       |  |   |
|-----------------------------------|---|-----------------------|--|---|
| Row                               | Determination Type  | Pending on 10/31/2017 | Determinations Completed <sup>1</sup> as of 10/31/2017 | Determinations Posted on the Website as of 10/31/2017 |
| 1                                 | # of "not likely" determinations                                      | 1                     | 105 <sup>4</sup>                                       | 103 <sup>4</sup>                                      |
| 2                                 | # of §5(e) Orders signed by both EPA and the submitter                | -                     | 288  | 284   |
| 3                                 | # of §5(e) Orders signed by EPA and awaiting submitter signature      | 70                    | -  | -   |
| 4                                 | # of non-Order SNURs/"not likely" determinations                      | 0                     | 0  | 0   |
| 5                                 | # of cases in post-FOCUS final determination development <sup>5</sup> | 230 <sup>3, 5</sup>   | -  | -   |
| 6                                 | # of cases flagged for in-depth review                                | 53                    | -  | -   |
| 7                                 | # of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)      | 83                    | -  | -   |
| 8                                 | # of LVE/LOREX exemption grants                                       | -                     | 471  | 460   |
| 9                                 | # of LVE/LOREX exemption denials                                      | -                     | 101  | 93  |
| 10                                | <b>Total number of cases</b>  | <b>437</b>            | <b>965</b>   | -   |
| 11                                | Normal active workload for the New Chemicals Program                  | 300                   | -  | -   |
| 12                                | Number of cases undergoing testing or data development by submitter   | 79                    | -  | -   |
| 13                                | <b>Backlog<sup>2</sup></b>  | <b>58</b>             | -  | -   |

<sup>1</sup>"Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

<sup>2</sup> (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

<sup>3</sup> Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters conduct testing to develop data on pchem properties and toxicity.

<sup>4</sup> "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.

<sup>5</sup> These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURS coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter or signature; Row 4 when the SNUR is published; and Row 1 when the determination document is sent to the OPPT OD for signature.

### **Upcoming Decisions:**

**Wolbachia Mosquito Registration** - OPP plans to issue a registration decision on the “*Wolbachia* Mosquito” by November 6. Male mosquitoes carrying the *Wolbachia* bacterium, trade name ZAP Males®, were proposed for registration by EPA on September 12. The public participation period for this action closed on September 27. ZAP Males® were submitted to EPA as a new microbial pesticide by MosquitoMate, Inc. If registered, this would be the first pesticide of its kind to utilize live mosquitoes to control mosquito populations of a specific species (*Aedes albopictus*). This particular species is of critical importance to human health as it can carry diseases, such as the Zika virus, Chikungunya virus, and West Nile virus. ZAP Males® mate with females in the environment, but their offspring do not survive into adulthood. Thus, with continual release throughout the mosquito season, the natural population declines over time. Neither the bacterium, nor the mosquito were genetically engineered to create the ZAP Males®.

### **Upcoming Meetings and Public Events:**

**International Chemical Management Conferences November 9- 14<sup>th</sup>.** OCSPP Deputy Assistant Administrator Nancy Beck is traveling to Taipei and Japan for two international chemical management conferences from November 9-14. In Taipei, she'll attend the International Chemical Management Conference as a keynote speaker presenting on TSCA implementation and will participate in a panel discussion at the EPA Taiwan Toxics & Chemical Substances Bureau HQ. On November 13, she'll attend the Seminar & Workshop on the Latest Trends in Chemical Substances Management in the United States of America in Tokyo, Japan.

**Technical Working Group on Pesticides, November 7-9.** The meeting of the Technical Working Group on Pesticides (TWG) is being hosted by Mexico this year and is scheduled to take place November 7-9, 2017, in Guanajuato, Mexico. Rick Keigwin, Director, Office of Pesticide Programs, is the U.S. representative to the Executive Board of the TWG and is the head of the U.S. delegation to the meeting. The TWG serves as a focal point for addressing pesticide issues arising in the context of liberalized trade among Canada, Mexico and the United States, while recognizing environmental, ecological and human health objectives. Its goal is to align the North American registration and maximum residue limit (MRLs) systems for pesticides and products treated with pesticides and make work-sharing a way of doing business. The TWG 5-year initiative commits the EPA to certain types of work including: joint reviews, risk assessments, and joint and coordinated development of harmonized risk assessment methods.

**Inventory Reporting Webinar, November 29.** EPA scheduled three webinars to assist the regulated community with reporting under the TSCA Inventory Notification (Active-Inactive) Rule, published in the Federal Register on August 11, 2017. This rule requires industry to report chemicals manufactured or imported in the U.S. over the past 10 years. Each identical webinar will include an overview of reporting requirements, a demo of the electronic reporting application (Central Data Exchange (CDX)),

and will provide time for questions and answers. The first webinars occurred on September 27 and October 25, 2017. The remaining webinars is scheduled for 1-3 PM EDT on November 29, 2017.

### **Last Week Highlights:**

**Pesticide Program Dialogue Committee Meeting November 1-2.** EPA's Office of Pesticide Programs held a public meeting of the Pesticide Program Dialogue Committee (PPDC) in the first floor conference center at One Potomac Yard South. The PPDC is a federal advisory committee, chartered under the Federal Advisory Committee Act (FACA), Public Law 92-463, representing sectors from pesticide industry and trade associations, pesticide users, growers, commodity groups, environmental/public interest and animal rights groups, federal and state/local/tribal governments, academia, public health organizations and the general public. EPA established the PPDC in September 1995 to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risk from use of pesticides. Topics discussed at the meeting included: metrics for state pollinator protection plans, dicamba formulations, pesticide synergy, the Pesticide Registration Improvement Act (PRIA), Worker Protection Standard (WPS), and certification of pesticide applicators.

**Non-Governmental Organizations Stakeholder Meeting, November 2.** Following the PPDC, OPP held its annual meeting with NGOs. Topics for discussion include EPA Regulatory Reform and the OPP budget, Worker Protection Standard, and Endangered Species Act Consultations. Participating NGOs included the American Bird Conservancy, Beyond Pesticides, Center for Food Safety, Farmworker Justice, Natural Resources Defense Council, and Northwest Center for Alternatives to Pesticides.

**Alternative Test Methods and Strategies to Reduce Vertebrate Animal Testing: November 2<sup>nd</sup> Public Meeting.** The Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act amended Section 4(h) of the Toxic Substances Control Act (TSCA) to require EPA to develop a Strategic Plan by June 22, 2018 to promote the development and implementation of alternative test methods and strategies to reduce, refine or replace vertebrate animal testing. OCSPP held a public meeting which occurred on November 2<sup>nd</sup>, 2017 to obtain input from interested parties and the public on the Agency's development of the Strategic Plan. OCSPP believes this early feedback will be important in developing a strong Strategic Plan.

**Office of the Chief Financial Officer****Hot Issues:**

- The Senate Appropriations Subcommittee on Interior, Environment and Related Agencies has delayed mark-up of its version of the FY 2018 Appropriations Bill.
- OMB continues to review EPA's estimated resource needs to respond to Hurricanes Harvey, Irma and Maria but excludes California wildfires. OMB's goal is to submit a supplemental funding proposal to Congress next week. Since last week, there are no new mission assignments/agreements from other federal agencies and associated funding to support disaster responses.
- The FY 2017 Agency Financial Report, which will include the agency's financial statement, OIG audit report, and a statement of assurance signed by the Administrator, is due to the President, Congress, and GAO on November 15. As required, the AFR also will be made available to the public at the same time on the agency's internet. OCFO will soon route the Administrator's required assurance statement and supporting Management Representation letters for signature on November 13.
- Public comment on the *FY 2018-2022 EPA Strategic Plan* closed on October 31. EPA received 4,565 comment submissions through Regulations.gov. To date, 542 comments have been posted publicly—the vast majority relate to climate. In addition, approximately 21,000 comments were emailed to Docket.epa and 12,625 comments were submitted to the Administrator through what appears to be a write-in campaign. Regulations.gov has added additional staff and believes it will take at least 2-3 weeks to post all unique comments. OCFO is developing options to expedite comment review.

**Upcoming Public Events:**

N/A

**Upcoming Major Decisions:**

- Consistent with October 26 email from the Acting CFO, senior leader rankings of top three enterprise risks based on risk assessments completed for the strategic objectives in the draft *FY 2018-2022 EPA Strategic Plan* are due November 3.
- OCFO will be communicating approach for initial interim FTE ceilings for the FY 2018 enacted budget. In addition, draft implementation guidance for future hiring will be developed and discussed with senior leaders. OCFO also is working on pre-planning for the FY 2018 Interim Operating Plan budget and scheduling meetings with the Acting Deputy Administrator, Chief Operations Officer, and Chief of Staff the week of November 13 to discuss. The current Continuing Resolution, which funds the federal government, expires December 8. Once Congress passes a final appropriation bill, EPA usually has 30 days to create and submit the Operating Plan to Congress, after getting Policy Team and OMB approval.
- As follow-up to the Chief Operations Officer November 1 email to senior leaders, meetings will convene in November to discuss NPM/Lead Region proposals for ambitious targets for Strategic Measures and Agency Priority Goals as the next critical step in finalizing *FY 2018-2022 EPA Strategic Plan*. The goal is to reach final agreements on targets by December 8, for inclusion in final draft *Plan* due to OMB on December 22.

**Last Week Highlights:**

N/A

**Other:**

- Now one month after the launch of the agency's upgraded PeoplePlus and Payroll Cost Allocation systems projects on October 5, the Command Center set up to provide additional support to the agency's users during the transition phase will close on November 3. OCFO will continue to monitor and resolve issues through the normal HelpDesk resolution procedure and regular stakeholder feedback mechanism.

## **Office of Congressional and Intergovernmental Relations**

### **Upcoming Hot Issues and Important Deadlines:**

**November 8** – Senate Committee on Environment and Public Works will hold a hearing on the nominations of Andrew Wheeler to be Deputy Administrator of the EPA

**November 8** – Quarterly Outreach Meeting with Intergovernmental Associations and EPA’s OCIR. The featured presenter will be Lee Forsgren, Deputy Assistant Administrator for Water. These meetings provide an opportunity for the Associations to hear from EPA Program Leadership on EPA’s priorities of interest to state and local governments, and to engage in dialogue.

### **Upcoming Events:**

- **November 8** - We are working on a Statement for the Record on the discussion draft of the ENERGY STAR Reform Act.
- **November 9** – House Energy and Commerce Committee, Subcommittee on Environment Legislative Hearing on H.R. 848- Rep. Newhouse (WA); “Farm Regulatory Certainty Act”. The bill would amend the Solid Waste Disposal Act to incentivize efficient nutrient management practices and to clarify citizen suit provisions. EPA will provide a written statement for this hearing.
- **November 14** – House Energy and Commerce, Subcommittee on Environment Hearing – Hurricane Response Activities. EPA Witnesses: Regional Administrators Regions 2, 4, 6.
- **November 15** – National League of Cities will convene its Annual City Summit in Charlotte, NC November 15 – 18. NLC touts this as the largest national conference for all city leaders – elected, appointed, and staff. Over 3,500 local leaders are expected.

### **Past Week Accomplishments:**

- **October 30** - City Manager Anthony Lyons meet with EPA to discuss the Cabot-Koppers Superfund Site that is located in Gainesville. Staff from the Office of Superfund Remediation and Technology Innovation will join OIR and Region IV staff for the meeting.
- **October 30** - EPA announced its denial of a petition to expand the list of states covered by the Ozone Transport Region (OTR).
- **October 31** – Hill notifications re: PISCES Clean Water SRF innovative project award winners w/OW
- **November 2** – Hill notifications on 2017 Gulf Hypoxia Task Force Report to Congress w/OW
- **November 2** - the House Committee on Transportation and Infrastructure held a hearing entitled, “Emergency Response and Recovery: Central Takeaways from the Unprecedented 2017 Hurricane Season. Pete Lopez, Regional Administrator for Region 2 at EPA, provided written testimony.
- **November 3** – Hill briefing from water-sector organizations on water infrastructure policy w/OW
- **November 3** – HEC staff briefing on Puerto Rico DWSRF w/OW
- **November 3** – Cong. Crawford (AR) staff briefing on Dicamba w/OCSPP

**Ongoing activities:**

- Participating in responses to hurricanes Harvey, Irma and Maria. Coordinating with state and local elected officials to ensure seamless communications.
  - HURRICANE AID PACKAGE RELEASED - The President signed a \$36.5 billion disaster relief package yesterday (Oct 26) that includes nearly \$5 billion to help shore up Puerto Rico's cash-strapped government. The package also includes an additional \$14 billion for FEMA's disaster fund, \$16 billion for the National Flood Insurance Program and \$576 million to fight wildfires, Sarah Ferris reports.
- The LGAC and SCAS nomination process for membership has entered the next stage. Regions are currently reviewing the initial rankings from the nomination review process. Within the next week or two OCIR management will be briefed on options to fill vacancies for the LGAC and SCAS. Senior management was briefed on the ranking process, Regional input, as well as the comprehensive balance review for optimal representation of local, state, and tribal government interests as well as diversity.
- The draft [ HYPERLINK "file:///C:\\Users\\Dmurph03\\Downloads\\EPA-HQ-OA-2017-0533-0002.pdf%20\"\_blank" ] was released for public comment on October 4. OCIR has two longer-term Strategic Measures which are reflected in the new Strategic Plan and will be working on reporting annual results on these Measures to the Agency's Senior Leadership. EPA will collect comments through October 31 on the draft Plan and the agency anticipates the final Strategic Plan will be submitted to Congress in February 2018.

**Office of Enforcement and Compliance Assurance****Hot Issues:**

**Hurricane Response:** On October 27<sup>th</sup>, after OECA's coordination with OAR and DOE, EPA issued an emergency fuel waiver in Puerto Rico. The fuel waiver allows the use of high sulfur heating oil and marine fuel in mobile nonroad generators or pumps used for emergency purposes in Puerto Rico, through November 15, 2017.

On October 31<sup>st</sup>, OECA extended a no action assurance for the Merck facility to provide for operation of an additional generator to help with access to power and clean water in Las Piedras, Puerto Rico through January 31, 2018.

**Upcoming Events/Public Meetings**

On November 15<sup>th</sup>, OECA Deputy AA Patrick Traylor will speak on "Environmental Enforcement Priorities in the Trump Administration" in a talk hosted by the American Bar Association's Environmental Enforcement and Crimes Committee.

In the coming weeks, OECA will be meeting with the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and the Association of Clean Water Agencies (ACWA) to listen to feedback and recommendations regarding the next phase of the State Review Framework (SRF). This is a continuation of OECA's ongoing work with states to update the SRF metrics prior to initiating reviews in calendar year 2018.

**Upcoming Major Decisions:**

None.

**Last Week's Highlights**

**Settlement with ExxonMobil to Reduce Harmful Air Pollution at Eight U.S. Chemical Plants:** On October 31<sup>st</sup>, EPA, DOJ, and the Louisiana Department of Environmental Quality (LDEQ) announced a settlement with Exxon Mobil that will eliminate thousands of tons of harmful air pollution from eight of Exxon's petrochemical manufacturing facilities in Louisiana and Texas. The settlement resolves allegations that ExxonMobil violated the Clean Air Act by failing to properly operate and monitor industrial flares at petrochemical facilities, which resulted in excess emissions of harmful air pollution. ExxonMobil will spend approximately \$300 million to install and operate air pollution control and monitoring technology to reduce harmful air pollution from 26 industrial flares at five ExxonMobil facilities in Texas and three of the company's facilities in Baton Rouge, Louisiana. LDEQ will receive \$470,000 of a \$2.5 million total civil penalty, and ExxonMobil will perform two state "beneficial environmental projects," including purchasing a \$1.5 million mobile air quality monitoring vehicle for LDEQ's use.

**Settlement with PDC Energy to Reduce Air Pollution:** On October 31<sup>st</sup>, EPA, DOJ, and the State of Colorado announced a settlement with Denver-based PDC Energy, Inc., resolving Clean Air Act violations related to PDC's failure to reduce volatile organic compound (VOC) emissions from its oil and gas exploration and production activities in the Denver area. This case arose from a series of



Colorado inspections that found significant VOC emissions from PDC's condensate storage tanks. Under the settlement, PDC will spend an estimated \$18 million on system upgrades, improved operations and maintenance practices, monitoring, and inspections to reduce emissions. PDC will also be required to implement environmental mitigation projects at certain sites to further reduce VOC and nitrogen oxide (NOx) emissions at a cost of \$1.7 million. The settlement includes a \$2.5 million civil penalty, which will be split evenly between the United States and the State of Colorado.

**Honeywell Remedial Action Order:** On October 26<sup>th</sup>, EPA issued an Administrative Order under CERCLA for remedial action to Honeywell International Inc. (Honeywell). The Order requires Honeywell to construct extraction wells and a treatment system for groundwater contamination at the San Fernando Valley (Area 1) Superfund Site. The Order is one component of a larger plan for remedy implementation negotiated over a period of years by stakeholders, including Honeywell and the Los Angeles Department of Water and Power. EPA anticipates entering into a consent decree to implement the second interim remedy with the PRPs, including Honeywell, in the next twenty-four to thirty-six months. Honeywell requested the Order so that it could begin conducting work and improving contaminant capture more quickly while consent decree negotiations proceed. EPA plans to incorporate the work required by the Order into the consent decree.

**Lead Plant Operator Sentenced for Violating the Clean Water Act:** On October 25<sup>th</sup>, John Lowery, the lead plant operator at an International Petroleum Corporation of America (IPC) facility in Delaware, was sentenced in the U.S. District Court in Delaware to one year of probation. Mr. Lowery is latest defendant to be sentenced as part of larger criminal case against IPC. IPC owned and operated the facility, which processed used oil and hydrocarbon-containing waste water and then sold the reprocessed petroleum to various companies for reuse. IPC pled guilty to similar charges and was sentenced on February 2<sup>nd</sup> to a \$1.3 M fine and \$2.2M in restitution to the City of Wilmington. This case was investigated by OECA's Criminal Investigation Division, with help from the City of Wilmington Department of Public Works and Delaware's Solid & Hazardous Waste Management Section.

## Office of Environmental Information

**Hot Issues:** None

**Upcoming Public Events:** None

**Upcoming Major Decisions:** None

**Last Week's Highlight:**

### EPA Is 1<sup>st</sup> Civilian Agency to Connect to DHS Cybersecurity Dashboard

- **Brief Description:** On October 27, EPA became the first Federal Civilian Agency to transmit information to the Department of Homeland Security's (DHS) Continuous Diagnostics and Mitigation (CDM) Federal Dashboard. CDM is a dynamic approach to fortifying the cybersecurity of government networks and systems by continuously identifying cybersecurity risks, prioritizing these risks, and mitigating the most significant problems first. The Wave 1 Communication "Software Test" effort confirmed agency dashboard communication with the DHS Federal Dashboard, demonstrating that the CDM data exchange model works. Although official reporting to the dashboard is currently scheduled for 4th QTR FY18, the test will provide DHS with initial summary level information about the agencies' "Cyber-hygiene".
  - The successful test was due to the outstanding work of our agency Information Security Officers, Network Administrators, and the OEI Office of Information Technology Operations Change Approval Board.
- **Who Benefits or Cares:** DHS, EPA, other federal agencies, and our commercial partners (DXC Technologies and others), implementing CDM.
- **Why this is important:** Supporting DHS' CDM initiative contributes to the enhanced Cyber Security initiative across the federal government, reducing vulnerabilities and effectively mitigating risks. Supplying information to the DHS CDM Federal Dashboard will allow DHS to more quickly identify security issues affecting multiple agencies.

**Office of General Counsel****New Judicial Decisions:**

- In a RCRA citizen suit, Ecological Rights Foundation (ERF) alleged pentachlorophenol-laden oil washes off utility poles stored at PG&E's service yards and is dispersed to the environment via stormwater runoff, whereby it may present an imminent and substantial endangerment to health or the environment under RCRA section 7002(a)(1)(B). On appeal to the Ninth Circuit from the District Court for the Northern District of California, the United States (on behalf of EPA) joined as amicus, seeking reversal of the district court's narrow holding regarding application of RCRA's anti-duplication provision, 42 U.S.C. § 6905. EPA did not take a position on the underlying merits of the case, but supported the plaintiff in arguing that the district court failed to conduct the analysis required by the statute. Reversing the lower court, the Ninth Circuit found that the anti-duplication provision did not preclude application of RCRA here, because there were no specific Clean Water Act statutory requirements applicable to the facility that could be inconsistent with RCRA. Additionally, the panel held that ERF had organizational standing to sue and remanded to the district court to consider whether the oil dispersed by stormwater is "solid waste" that may present an imminent and substantial endangerment. (*Ecological Rights Foundation v. PG&E* (ERF II), No. 15-15424)
- The DC Circuit granted Truck Trailers Manufacturers Association, Inc.'s request to stay the trailer provisions of the Phase 2 HD rule, and has granted our request to hold the litigation over the rule in abeyance, with status reports due every 90 days. (*Truck Trailer Manufacturers Association, Inc. v. EPA, et al.*, No. 16-1430)
- In a favorable decision, a Maryland District Court dismissed a complaint against a number of State of Maryland defendants, Queen Anne, Maryland County Commissioners and the United States, including EPA. The complaint alleged a number of violations including, in the case of EPA, a failure to intervene under section 505 of the CWA on plaintiffs' behalf in the State actions. (*James Arnold Williams, Jr., et al. v. Stephen K. Wilson, et al.*, (No. JKB-17-1583))
- The U.S. District Court for the Western District of Washington denied EPA's motion for reconsideration in the litigation challenging EPA and NOAA actions (and inaction) with respect to Washington's nonpoint source management program. EPA sought reconsideration of the court's earlier order finding that plaintiff alleged standing based on "procedural injury" for certain claims because plaintiff expressly disclaimed procedural injury. The court also denied EPA's request to reconsider whether a claim about past grant funding awards was not moot. (*Northwest Environmental Advocates v. Dept of Commerce*, No. 2:16-cv-01866-JCC)
- EPA received an adverse jury verdict in an employment law matter. For more information, please contact Kevin Minoli or Elise Packard.

**New Complaints Filed:**

- The Environmental Defense Fund (EDF) filed a Freedom of Information Act (FOIA) lawsuit in the U.S. District Court for the District of Columbia alleging that EPA has failed to timely respond to three FOIA requests submitted to EPA in January, March, and June of 2017. The three FOIA requests at issue request records on three distinct topics: (1) conflicts of interest for Administrator Pruitt, (2) direction to EPA staff on communicating with the public about science, and (3) Administrator Pruitt's calendar. EPA had provided a partial response to two of the three requests at the time the complaint was filed, but has not completed the response to any

requests within the statutory time-frame. (*Environmental Defense Fund v. EPA*, No. 1:17-cv-220)

- Sierra Club and A Community Voice filed suit against the Administrator in the Northern District of California regarding the delays of the TSCA formaldehyde rule for composite wood products (hardwood plywood, medium density fiberboard, and particleboard). The formaldehyde final rule under TSCA Title VI was published on December 12, 2016 but, via subsequent action in January and March, the effective date was delayed until May 22, 2017. Although the rule became effective in May, the compliance dates did not begin until December 2017. So after a direct final rule (which was withdrawn) and companion proposal in May, the Agency published a final rule on September 25, 2017 to delay the compliance dates, most notably from December 2017 until December 2018. Plaintiffs argue that the delay of the compliance dates violates and exceeds the Agency's authority under TSCA Title VI, which they assert required regulations to be promulgated by January 1, 2013 and to require compliance with those regulations 180 days after the regulations' promulgation. (*Sierra Club, et al. v. EPA*, No. 3:17-cv-06293)
- Charles A. Folsom, a private citizen in Fremont, Nebraska, filed a complaint against EPA in the U.S. District Court for the District of Nebraska challenging a proposed Administrative Order for Compliance on Consent. EPA Region 7 sent the proposed order to Plaintiff on Feb. 26, 2016, along with a letter explaining that the Army Corps had referred the matter because Plaintiff discharged fill without a permit along 1,500 linear feet of the banks of the Elkhorn River. The complaint seeks declaratory relief and an injunction against EPA from enforcing the order against the Plaintiff. (*Charles A. Folsom v. U.S. Army Corps of Engineers Nebraska District, et al.*, No. 4:17-cv-03143)

### **Hot Issues:**

- OGC is working diligently to implement the Administrator's October 16th Directive, *Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements*. Among the steps we are taking is the upcoming launch of OGC's new website with significantly more information regarding current litigation and the creation of @EPAcounsel, OGC's first-ever twitter account. Finally, we have reached out to the National Association of Attorneys General and, with OCIR's assistance, will be reaching out to the Governor's Office and environmental agency for each state to obtain a point of contact for the notices to be provided to affected states.

### **New Petitions that OGC is Aware Of:**

None that OGC is aware of.

### **Upcoming Public Events & Important Meetings in the Next Two Weeks:**

On November 8, OGC will be hosting its annual award ceremony.

### **Upcoming Major Deadlines in the Next Two Weeks:**

- 11/03 Optional Response to Objections due in *National Family Farm Coalition, et al. v. EPA*, a petition for review of an EPA Order granting registration under FIFRA section 3 of Monsanto's "Xtendimax with VaporGrip Technology," containing the herbicide dicamba

DGA salt, for use on genetically engineered (GE) cotton and soybean in 34 states. Petition for Review generally alleges violations of FIFRA and the ESA.

- 11/03 EPA's response to Plaintiffs' Motion for Summary Judgment and EPA's Cross Motion for Summary Judgment is due in *Columbia Riverkeeper v. Pruitt*, a claim of mandatory duty to disapprove constructive submission of temperature TMDL for Columbia and Lower Snake Rivers.
- 11/03 EPA's Summary Judgment Brief is due in *Anacostia Riverkeeper v. Pruitt*, a NGO challenge to EPA's revised approval of DC/MD TMDL for bacteria for the Potomac River.
- 11/06 Answer/Motion to Dismiss is due in *Small Retailers Coalition v. EPA*, where plaintiff alleges EPA did not comply with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failure to annually review the point of obligation of the RFS.
- 11/06 Response to Complaint due in *Humane Society of the United States, et al. v. EPA*, a claim of unreasonable delay in responding to a 2009 petition seeking the regulation of CAFOs under Section 111 of the Clean Air Act.
- 11/06 The Scheduling Conference is set in *Bd. of Comm'rs of Clermont Cty., Ohio v. EPA*, a FOIA litigation that pertains to a FOIA request that sought records regarding the CECOS facility in Williamsburg, Ohio.
- 11/06 Oral Argument in *U.S. v. CITGO Petroleum Corp.* The District Court awarded the U.S. an \$81M civil penalty under CWA 311(b) for an oil discharge from CITGO's Lake Charles, LA refinery. CITGO has appealed the legal standard used to determine economic benefit, and the U.S. has appealed the assessment of a penalty lower than CITGO's economic benefit and failure to explain the basis for the penalty amount.
- 11/07 Oral Argument in *Environmental Integrity Project v. Pruitt*, where the State of North Dakota appealed the district court's decision to deny the State's intervention request and challenge to consent decree entered in December 2016 in a case involving the solid waste regulations applicable to oil and gas.
- 11/08 Motions to Govern are due in *American Lung Association v. EPA*, a petition for review of EPA's final action extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards.
- 11/08 A joint proposed schedule for briefing or disclosure is due in *EIP v. EPA*, a FOIA litigation concerning a request seeking records of expenditures for travel outside of Washington, D.C. for the Administrator and anyone accompanying him.
- 11/08 U.S. Response due in *Guam v. U.S.*, litigation where Guam seeks to hold the United States liable for response costs under CERCLA 107(a) for cleanup at the Ordot Landfill in Guam performed under an EPA/Guam CWA Consent Decree.
- 11/08 Reply in Support of Motion to Dismiss due in *Food & Water Watch v. EPA*, a challenge to denial of fluoride petition under section 21 of TSCA.

- 11/09 Oral Argument in *Sierra Club, et al. v. EPA*, a petition for review of EPA Final Rule entitled "NESHAP for Brick and Structural Clay Products Manufacturing, and NESHAP for Clay Ceramics Manufacturing."
- 11/09 The Motion for Summary Judgment is due in *PEER v. EPA*, a FOIA litigation alleging failure to respond to a two-part FOIA request that sought documents related to statements from Scott Pruitt about climate change.
- 11/09 Statement of Issues and Procedural Motions due in *EDF v. EPA*, a challenge to the TSCA inventory reporting rule.
- 11/13 Motion to Govern due in *Wisconsin Public Service Corporation v. EPA*, a petition for review of TR Revisions Rule (Feb.): final rule entitled "Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone."
- 11/13 Motion to Govern due in *Utility Air Regulatory Group v. EPA*, a petition for review of EPA's final rule entitled "Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone."
- 11/13 A production of documents is due in *Judicial Watch, Inc. v. EPA*, a FOIA litigation that was filed after EPA failed to respond to a request for internal emails or other records related to EPA's use of the Thunderclap social media platform.
- 11/13 Summary Judgment Brief is due in *Sanitary Board of the City of Charleston, West Virginia v. McCarthy*, a challenge to EPA's disapproval of site specific criteria for copper.
- 11/13 EPA's Response to Motion to Reconsider is due in *City of Tauton v. EPA*, a challenge by permittee to NPDES permit.
- 11/14 Answer due in *Riverkeeper, Inc., et al., v. Pruitt, et al.*, a mandatory duty challenge to disapprove New York's primary recreation criteria.
- 11/15 Reply in Support of Motion for Summary Judgment due in *Nucor Steel-Arkansas, et al. v. EPA*, where plaintiffs allege the EPA failed to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas.
- 11/15 Motion to Govern/Continued Abeyance due in *American Fuel & Petrochemical Manufacturers, et al. v. EPA*, a petition for review of EPA's final rule entitled "Standards of Performance for Petroleum Refineries, Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007."
- 11/15 Cross Motion for Summary Judgment due in *State of Connecticut v. EPA*, litigation where plaintiff alleges EPA failed to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania.

- 11/15 Oral Argument scheduled in *United States Steel Corporation v. EPA*, a petition for review of EPA's final action titled "Air Plan Approval, Minnesota and Michigan, Revision to 2013 Taconite Federal Implementation Plan Establishing BART for Taconite Plants."
- 11/15 The first of three rolling productions is due in *Natural Resources Defense Council v. EPA*, a FOIA litigation that concerns a FOIA request that sought policy or guidance for removing information or web pages from an EPA website.
- 11/15 A document production is due on in *California v. EPA*, a FOIA litigation that concerns a 32-part FOIA request seeking a variety of records regarding Scott Pruitt's ethics-related forms and recusals.
- 11/15 Motion to Dismiss due in *CBD v. EPA*, a pesticide mega-suit—ESA challenge to multiple pesticides and pesticide actions.
- 11/15 Motion for Extension of Consent Decree Deadline is due in *Missouri Center for the Environment v. EPA*, where the Consent Decree requires that the EPA propose nutrient criteria for Missouri lakes by December 15, 2017.
- 11/15 Motion for Extension of Consent Decree Deadline is due in *NWEA v. EPA*, where the Consent Decree requires that the EPA propose aluminum criteria for Oregon by December 15, 2017.
- 11/16 Oral Argument scheduled in *UARG v. EPA*, challenges to EPA's determination that CSAPR provides for greater reasonable progress than BART and our limited disapproval of regional haze SIPs relying on CAIR to meet BART and other requirements.
- 11/16 Hearing on EPA action on Montana's 2017 revised multiple discharger variance for nutrients is scheduled in *Upper Missouri Waterkeeper v. EPA*.
- 11/17 A Joint Schedule and production of correspondence is due in *Center for Biological Diversity v. EPA*, a FOIA matter that concerns two FOIA requests seeking correspondence to or from Scott Pruitt as well as calendars and other things.
- 11/17 Mediation meeting with magistrate is scheduled in *Ellis v. Keigwin*, FIFRA and ESA challenges to clothianidin and thiamethoxam registrations.

**Office of International and Tribal Affairs****Hot Issues:**

**Tijuana Spill** - Mexico has proposed that the North American Development Bank finance the Rosarito Desalinization plant in Tijuana. While EPA (Region 9 and OITA) supports Mexico addressing its water supply issues, we feel it is necessary for Mexico to greatly upgrade the existing declining wastewater infrastructure in Tijuana before additional consumed potable water is put into the system and cause the flow of more untreated water into the U.S.

- Mexico has not met our conditions to fund the wastewater upgrades that would be necessary to address existing wastewater pollution flowing into the U.S., let alone putting additional strain on wastewater that additional consumed potable water supplies would cause.
- For these reasons, EPA (OITA) will oppose the Mexican proposal at the North American Development Bank meeting on November 9<sup>th</sup>.
- Region 9 has also been informed that Imperial County has filed a Notice of Intent to sue the International Border Water Commission (IBWC) over the health issues caused by water pollution coming from Tijuana.

**Upcoming Engagements:**

- November 8-10 – Under the International Environmental Partnership (IEP), an EPA delegation (OITA Acting AA, OSCPP DAA, OCHP Director, OLEM Director) will participate in a series of workshops on children's health, toxics and brownfields. The Vice President of Taiwan will open the plenary session to provide visibility to the Taiwan- EPA partnership and IEP.
- November 9 – EPA (OITA) will participate in the North American Development Bank Board of Directors meeting in San Antonio, along with Treasury and the State Department.

**Past Week Highlights:**

**Tracking Expenditures for Tribal Solid Waste Projects:** OITA sent a memo on October 31 to provide direction to the Regional Offices on how to track and report expenditures for waste management and recycling services under the Indian Environmental General Assistance Program (GAP).

- Funding solid waste and recycling program services have previously been prohibited under RCRA. However, Congress has allowed such costs for GAP funds appropriated in FY 2016-FY 2020 to tribes for "solid waste and recovered materials collection, transportation, backhaul, and disposal services."
- OITA has worked with OGC, OCFO and OLEM to establish an approach for tracking GAP expenditures for these costs. This nationally consistent approach will help inform EPA and other federal agency partners on the amount of money expended for solid waste activities and help us better assess the tribal needs and expenditures over time.

**Regional Conference to Combat Illegal Mining**

EPA (OITA) participated in the Regional Conference to Combat Illegal Mining with officials from Colombia, Peru, Guyana, Ecuador and Brazil, including National Police, Military, Ministries of Environment, Ministries of Mines, and State Department's International Narcotics and Law Division.

- There was a strong focus on environmental and criminal enforcement of illegal gold mining activities, a major source of mercury pollution, occurring in the Latin America.



- Artisanal and Small Scale Gold Mining (ASGM) is the largest source of global mercury emissions (37%). While ASGM is an important informal means of livelihood in many communities, in some cases the practice is closely linked to criminal groups operating in the region.
- EPA participated in sessions exploring the use of mercury in ASGM, alternative technologies to mercury, management and storage of mercury, and promoting regional cooperation under the Minamata Convention on Mercury.

## **Office of Land and Emergency Management**

### **Hot Issues:**

- Emergency response to hurricanes and wildfires.
- Coal Combustion Residuals.
- CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing. The draft of the final rule was provided to OMB for review on November 1. We have a judicial deadline of December 1.
- Clean Air Act 112(r) Risk Management Program.
- Ongoing major Superfund NPL sites (for example, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).
- CERCLA-EPCRA AFO-CAFO Rule.

### **Upcoming Public Events:**

- RCRA Division Director Meeting (not a public meeting.) On November 15-16, RCRA Division Directors will meet in Boston.
- America Recycles Day. On November 15, we will participate in a Recycling Forum hosted by Keep America Beautiful in partnership with the Institute of Scrap Recyclers.
- Food Recovery Challenge (FRC). We plan to announce the 2017 winners of the FRC awards in late November.

### **Upcoming Major Decisions:**

- E-Manifest User Fee Final Rule. The rule package is with OMB.
- RMP Rule Reconsideration. OLEM, OGC, and the AO are conferring on next steps and schedule.

### **Last Week Highlights:**

**Association of State and Territorial Solid Waste Management Officials (ASTSWMO).** We participated in last week's ASTSWMO annual meeting in Arlington, Virginia.

**Office of Policy**

Documents Submitted to OFR from October 26 - November 1, 2017

| FRL              | Title  | Date Submitted to OFR |
|------------------|--|-----------------------|
| 9970-25-OP       | Final Report on Review of Agency Actions that Potentially Burden the Safe, Efficient Development of Domestic Energy Resources Under Executive Order 13783                              | 10/31/2017            |
| 9970-36-OAR      | Response to December 9, 2013, Clean Air Act Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont | 10/31/2017            |
| 9970-22-OAR      | Clean Air Act Advisory Committee (CAAAC): Notice of Meeting  | 10/30/2017            |
| 9970-32-Region 9 | Approval of California Air Plan Revisions, Northern Sierra Air Quality Management District   | 10/30/2017            |
| 9968-69-OCSP     | FIFRA Scientific Advisory Panel; Notice of Public Meeting for the Clarification of Charge Questions on Alternate High-Throughput Screens to Determine Endocrine Disruption             | 10/27/2017            |
| 9968-25-OA       | FAST-41 Best Practices: Delegated state permitting programs  | 10/26/2017            |
| 9970-16-Region 5 | Air Plan Approval; Illinois; Volatile Organic Compounds Definition   | 10/26/2017            |
| 9970-15-Region 5 | Adequacy Status of the Kenosha County, Wisconsin Area for Submitted 8-Hour Ozone Attainment Demonstration for Transportation Conformity Purposes                                       | 10/26/2017            |
| 9970-10-Region 6 | Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule  | 10/26/2017            |
| 9970-18-Region 6 | NOTICE OF PROPOSED ADMINISTRATIVE SETTLEMENT PURSUANT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT   | 10/26/2017            |

## **Office of Research and Development**

### **Hot Issues:**

#### **Senate Staff Briefing on PFAS**

On November 1, ORD participated in a PFAS 101 briefing for staff from the Senate Appropriations Committee. During the briefing, Bruce Rodan provided an overview of what PFAS are and how they are used, and described EPA's current PFAS activities. Representatives from OW, OLEM, OCFO and OCIR also attended. The briefing was very well received.

#### **NC DEQ releases EPA PFAS analysis**

On October 30, North Carolina Department of Environmental Quality (NC DEQ) released a ORD-led [ [HYPERLINK](#)

"[https://files.nc.gov/ncdeq/GenX/NC%20DEQ%20Chemours%20Process%20Results%20Rpt6\\_10.25.2017.Final\\_.pdf](https://files.nc.gov/ncdeq/GenX/NC%20DEQ%20Chemours%20Process%20Results%20Rpt6_10.25.2017.Final_.pdf)" ] of samples collected from wastewater inside the Chemours facility in Fayetteville, N.C. This is the sixth ORD report in a series intended to support NC DEQ's decisions surrounding the industrial discharge of PFAS into the Cape Fear River. The report showed that wastewater collected inside the facility had detectable concentrations of five fluorinated compounds, including GenX. In addition to releasing the report, NC DEQ also released the statement, [ [HYPERLINK "https://deq.nc.gov/news/press-releases/2017/10/30/deq-takes-action-stop-additional-chemours-discharge-based-epa-report"](https://deq.nc.gov/news/press-releases/2017/10/30/deq-takes-action-stop-additional-chemours-discharge-based-epa-report) ]. In the statement, NC DEQ announced that Chemours has agreed to capture additional industrial wastewater with fluorinated compounds, rather than releasing it into the Cape Fear River. NC DEQ Secretary, Michael Regan, states that this step is intended to protect drinking water and is part of NC DEQ's "...ongoing work to stop possible contaminants at their source."

#### **Water Sample Analysis from Parkersburg, WV Warehouse Fire.**

The Greater Cincinnati Water Works (GCWW) asked ORD to conduct a confirmatory analysis of water samples collected in Parkersburg, WV following the warehouse fire that started on October 21. The GCWW is analyzing water samples in anticipation of contaminants being introduced into the Ohio River. The warehouse stored plastics and other materials and high volumes of water and fire-fighting foams were used to fight the fire. ORD ran metals analysis on water samples taken from the fire-fighting run-off water. ORD's water analysis results were shared with GCWW to help them interpret their results. The results were also shared with Region 3. GCWW is coordinating with multiple organizations including the Ohio River Valley Water Sanitation Commission.

#### **Missoula City-County Health Department Support**

ORD, OAR and Region 8 will provide scientific and technical expertise to the Missoula City-County Health Department in Missoula, MT. They will share expertise on the potential health implications of sub-chronic exposures as well as sub-daily exposures (i.e., 1-3 hours) to PM2.5 from wildfire smoke to ensure the proper health messaging is being provided to Missoula County residents in response to wildfire smoke.

### **Upcoming Public Events:**

#### **Remediation Field Studies at Chem-Dyne Superfund Site**

Next week, at the request of Region 5, ORD will assist in field studies to determine groundwater flow directions and rates in support of an evaluation of the ongoing monitored natural attenuation pilot

remedy for groundwater at the Chem-Dyne site in Hamilton, OH. ORD research is providing technical assistance to Region 5 and the Ohio EPA to investigate the impact of this remedial measure on groundwater flow and contaminant transport. The Chem-Dyne site is a former waste transfer, storage, and disposal facility with groundwater and soil contamination, including arsenic, asbestos, benzene, and polychlorinated biphenyls.

### **Vehicle Decontamination and Waste Management Stakeholder Discussion**

Wide-area contamination incidents caused by terrorism, industrial accidents or natural disasters can result in thousands of contaminated vehicles that must be managed. On November 13, 2017, ORD researchers are hosting a one-day workshop on vehicle decontamination and waste management. The objective of the workshop is to bring officials from federal, state, and local governments, experts from the automotive, waste management, and insurance industries, as well as researchers, to discuss decontamination and disposal of vehicles following a wide-area disaster. These discussions will help inform operational and research gaps, identify areas of potential collaboration, and emphasize state and local needs in response to a wide-area incident. Current workshop topics include decontamination research featuring presentations by EPA, USDA, DoD, and Argonne National Lab. The workshop will also feature operational considerations from states, locals and industry perspective presented by NYC Office of Emergency Management, American Insurance Association, and Automotive Recyclers Association.

### **Water Research Webinar on the National Stormwater Calculator**

On November 15 from 2-3 pm ORD will present the [ HYPERLINK "<https://www.epa.gov/water-research/national-stormwater-calculator>" ], to introduce new features. The SWC, in addition to being a desktop application is now available as a mobile web application that can be used on mobile devices, such as smartphones and tablets, and is compatible with all operating systems with an internet connection. A cost estimation module that allows planners and managers to evaluate green infrastructure practices based on comparison of regional and national project planning level cost estimates and predicted performance has also been added.

### **Last Week Highlights:**

#### **TSCA Implementations: Alternative Testing Methods**

On November 2 ORD staff participated in an “Informational Gathering Session on Alternative Testing Methods”, to develop the strategic plan to reduce, refine or replace animal testing under the amended TSCA (Lautenberg Act). ORD is working to support the Office of Chemical Safety and Pollution Prevention (OCSPP) to develop the strategic plan to fulfill one of the requirements of the new TSCA legislation.

#### **EPA Research Scoping Meeting, Fort Campbell, KY, November 1-2**

ORD initiated discussions on possible collaborations between EPA and Department of Defense representatives at [ HYPERLINK "<http://www.campbell.army.mil/Pages/Default.aspx>" ] to develop and enhance sustainability projects on the base as part of the NetZero program.

#### **ORD Supports R10 Efforts to Address Closed Oyster Areas**

Large portions of the economically important Tillamook Bay in Northwest Oregon are frequently closed to oyster aquaculture because of high levels of fecal bacteria that can cause gastrointestinal illnesses. On November 1, ORD will present findings of Tillamook Bay studies to EPA Region10

water quality staff based in Portland, OR, and Seattle, WA, to help them understand spatial and temporal trends in fecal pollution levels in this watershed.

### **Transform Toxicity Testing Challenge**

In January 2016, EPA launched the Transform Toxicity Testing Challenge – Innovating for Metabolism along with their partners, the National Toxicology Program headquartered at the National Institutes of Health (NIH), and the NIH National Center for Advancing Translational Sciences. The purpose of the challenge is incorporate metabolic competence into in vitro high-throughput screening (HTS) assays. The challenge asked for innovative ideas for developing techniques to retrofit existing assays to incorporate processes that reflect how chemicals are broken down and metabolized by the body. After selecting semi-finalists in May 2017, the EPA and its partners have selected the Transform Toxicity Challenge Stage Two winners. Stage two winners have produced practical designs that bring us one step closer to turning existing, commonly used in vitro HTS assays into tests which will evaluate both parent chemical and metabolite effects. More information is available [ [HYPERLINK "https://www.epa.gov/innovation/announcing-transform-toxicity-testing-challenge-stage-two-winners"](https://www.epa.gov/innovation/announcing-transform-toxicity-testing-challenge-stage-two-winners) ].

### **EPA Launches Air Quality Study in Kansas City Neighborhoods**

ORD and Region 7 recently launched the Kansas City Transportation and Local-Scale Air Quality Study (KC-TRAQS) to investigate local community air quality in three neighborhoods in Kansas City, KS, that have multiple air pollution sources from highways, railways, and industry. The study, an FY 2016 RESES project that was also funded through RARE, will be conducted for one year and provide comprehensive air quality monitoring using three different air measurement approaches. In addition to RESES and RARE support, ORD is supporting the project by providing scientific expertise and multiple stationary and mobile monitoring technologies. They have also provided an AirMapper, developed by ORD researchers, for a citizen science project and educational outreach for residents and students.

### **Water Research Webinar Attracts Close to 700 People**

On October 25, 678 people attended the ORD webinar on the Integrated Decision Support Tool (i-DST) for life cycle cost assessment of grey and green stormwater management Infrastructure that is in development under a National Priorities grant. The Colorado School of Mines highlighted their EPA grant work on the development of the i-DST, which can be used to optimize stormwater infrastructure based on user-defined institutional barriers, and economic, environmental, and societal objectives.

### **Innovative Research Leads to Provisional Patent Application**

A major advance in current technology enables observers to visualize how airway cells change in real time in response to an environmental agent, such as ozone. ORD has applied for a provisional patent on the “Controlled Atmosphere Chamber for Live-time Imaging of Cells,” which is a chamber that permits real-time microscopic imaging of live cells at high magnification.

**Office of Water****Hot Issues:**

Waters of the U.S.: Today, OW sent to OP for transmittal to OMB for expedited review a proposed rule that would delay the effective date of the 2015 Clean Water Rule by two years. The proposed amendment to the effective date is intended to provide regulatory certainty to the public and will provide EPA and the Army Corps of Engineers time to complete the two-step process to rescind and revise the 2015 rule. Processing of the Step 1 public comments is nearing completion, with over 685,000 comments and 140 mass mailer campaigns already uploaded. For Step 2, the Office of Water held the 6<sup>th</sup> of the 10-part webinar series on November 7 for the mining and resource extraction sector. On November 14, we will hold a webinar for scientific organizations and academia, with approximately 30 registered speakers. In addition, the agency has received 132 recommendation letters to the administrative docket as part of our pre-proposal outreach on the Step 2 rulemaking. That docket closes on November 28.

Columbia River Temperature TMDL (Constructive Submission) Litigation Update: Tomorrow, EPA will file its opening brief to the District Court (W.D. WA) in the Columbia River Temperature TMDL litigation. In 2016, Columbia River Keeper, et. al. filed a complaint alleging, among other things, that Oregon and Washington's failure to establish a temperature TMDL for the Columbia and Lower Snake Rivers constitutes a "constructive submission" of no TMDL, requiring action by EPA.

Voluntary transfer of Idaho's UIC Class II program to EPA: This week, OW sent forward to OP for Administrator's signature, a *Federal Register Notice* proposal package for the voluntary transfer of Idaho's Class II program to EPA. This transfer will result in the EPA implementing the Class II UIC program in the state of Idaho, including permitting, compliance, and enforcement responsibilities.

Combined Sewer Overflow (CSO) Public Notice in the Great Lakes, Final Rule: This week, OW sent forward to OP for OMB review the Great Lakes CSO Public Notice final rule. This effort is in response to Section 425 of the 2016 Consolidated Appropriations Act which requires EPA to work with affected states to implement these requirements by December 18, 2017. The final rule requirements closely follow the legislation and address signage, notification of local public health departments and other potentially affected public entities, notification to the public, and annual notice provisions and apply to NPDES permittees authorized to discharge from a CSO to the Great Lakes Basin.

WIFIA: This week, the WIFIA program received its first loan application from the Indiana Finance Authority. The application will now be reviewed for completeness before kicking off the credit review and term negotiation process and engineering due diligence review which could take approximately two months. Next week the WIFIA program will host the first in series of outreach sessions in Denver, CO. More information about upcoming outreach sessions and webinars is available at: [ HYPERLINK "<https://www.epa.gov/wifia/learn-about-wifia-program>" \I "information" ]

Proposed Withdrawal of Criteria in the California Toxics Rule Update: As early as next week, OW anticipates send to OP for Administrator's signature the proposed rule to amend federal regulations to withdraw certain federal water quality criteria for three parameters (lead, chlorodibromomethane, and dichlorobromomethane), applicable to certain waters in California. Specifically, the proposed rule will withdraw: human health (water & organisms) criteria for chlorodibromomethane and

dichlorobromomethane for a segment of New Alamo Creek and a segment of Ulati Creek, California; and, freshwater acute and chronic aquatic life criteria for lead for the Los Angeles River and its tributaries. In the 2000 California Toxics Rule or CTR (40 CFR 131. 38), EPA promulgated federal regulations establishing water quality criteria for priority toxic pollutants for California. The state now has adopted site-specific criteria for these parameters for these waters. EPA approved the State's site-specific criteria, which are less stringent than the federally promulgated criteria, because EPA determined that the State's criteria were scientifically sound and protective of the designated use(s) of these waters. Consistent with the emphasis on state primacy for the water quality program articulated in the preamble of the CTR, EPA has determined that the certain federally promulgated criteria are no longer needed for these particular waters. Once finalized, the withdrawal of the federally promulgated criteria will enable California to implement its EPA-approved water quality criteria for CWA purposes for these parameters in certain waters in California.

### **Last Week Highlights:**

**GAO Green Infrastructure Report:** This week the GAO released [ [HYPERLINK "http://www.gao.gov/products/GAO-17-750"](http://www.gao.gov/products/GAO-17-750) ]. GAO has identified one recommendation which states “The Director of EPA's Office of Wastewater Management should, when working with municipalities and other stakeholders to develop long-term stormwater plans, document agreements on how they will collaborate, such as in a memorandum of understanding, aligned with our key considerations for implementing interagency collaborative mechanisms.” The GAO is requesting a statement of action within 60 days of receipt. According to 31 U.S.C. 720, as recently amended, the head of a federal agency is to submit a written statement of the actions taken or planned on our recommendations to the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Government Reform, the congressional committees with jurisdiction over the agency program or activity that is the subject of the recommendations, and GAO not later than 60 calendar days from the date of the report.

**NAPA Affordability Report:** This week, the National Academy of Public Administrators (NAPA) released their final affordability report, which can be found at [ [HYPERLINK "http://www.napawash.org/2017/2032-developing-a-new-framework-for-community-affordability-of-clean-water-services.html"](http://www.napawash.org/2017/2032-developing-a-new-framework-for-community-affordability-of-clean-water-services.html) ]. The report acknowledges and reflects the complex nature of assuring clean water that is affordable to communities while acknowledging some of the initiatives and efforts made by EPA to address the complexities. NAPA concluded that EPA should improve its community affordability framework for determining the financial capability of permittees to provide clean and affordability water services. The majority of NAPA's recommendations focus on how EPA can provide greater support for integrated planning and building greater utility financial and managerial capacity to address affordability challenges.

**National Drinking Water Advisory Council Meeting:** This week, the Federal Register notice announcing a public meeting of the National Drinking Water Advisory Council (NDWAC) on December 7 and 8 published.